

# Client Update

## Implementing the CAATS Act: Revisions to Sectoral Sanctions Against Russia

On September 29, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") took the first steps to implement the recently enacted Countering America's Adversaries Through Sanctions Act (the "CAATS Act"), which we discussed in our [client update of July 28, 2017](#). Specifically, OFAC revised U.S. sanctions against designated Russian financial and energy companies and clarified that the restrictions take effect on November 28, 2017, 60 days after their publication.

Last week also saw several other developments regarding the CAATS Act, including a presidential memorandum delegating responsibilities under the act to various executive departments and agencies, as well as a letter from Senators Ben Cardin (D-Md) and John McCain (R-Az) to President Trump calling for the administration to "implement the law to its fullest extent."

We recently held seminars in London, Moscow and New York to discuss the CAATS Act and other sanctions developments. [Click here](#) to access the recording and materials from the London seminar. [Click here](#) to access the recording and materials from the New York seminar.

### THE AMENDED SECTORAL SANCTIONS DIRECTIVES

The amended restrictions targeting Russian financial services companies and their subsidiaries (known as *Directive 1*) will limit, beginning on November 28, 2017, permissible transactions by U.S. persons in new debt of designated entities to a maximum maturity of 14 days. Under previous law, the maximum maturity was 30 days; it was 90 days before September 12, 2014.

The amended restrictions targeting Russian energy companies and their subsidiaries (*Directive 2*) will limit, beginning on November 28, 2017, permissible transactions by U.S. persons in new debt of designated entities to a maximum maturity of 60 days. Under previous law, the maximum duration was 90 days.

The restrictions are summarized in the following table:

When the debt was issued	Maximum maturity of permitted debt, Directive 1 entities	Maximum maturity of permitted debt, Directive 2 entities
July 16, 2014 to Sept. 11, 2014	90 days	90 days
Sept. 12, 2014 to Nov. 27, 2017	30 days	90 days
On and after Nov. 28, 2017	14 days	60 days

These amendments are required by Section 223 of the CAATS Act.<sup>1</sup> Prior amendments became effective immediately but, in this case, the delayed effective date was required by the CAATS Act.

OFAC also issued updated Russia-related Frequently Asked Question (“FAQ”) 370, including new tables describing the tenors of prohibited debt. Other FAQs were revised to note that additional guidance will be issued when the amendments become effective in late November 2017.

#### OTHER DEVELOPMENTS IN U.S. SANCTIONS AGAINST RUSSIA

Also on September 29, President Trump issued a presidential memorandum delegating certain functions and authorities of the CAATS Act. The Secretary of State, in consultation with the Secretary of the Treasury, is now directed under Section 231 of the CAATS Act to publish guidance regarding new sanctions authorized against non-U.S. persons that engage in “significant” transactions with Russia’s defense or intelligence sectors. Under the CAATS Act, that guidance was required by October 1, 2017; as of this writing, the State Department has not yet described those Russian persons deemed to be in Russia’s defense or intelligence sectors for purposes of these sanctions.

Other functions designated primarily to the State Department include various secondary sanctions authorities, including sanctions against persons who make significant investments in Russian arctic, deepwater or shale oil projects (Section 225) or certain investments or other contributions that relate to Russia’s construction of energy export pipelines (Section 232). The Secretary of the Treasury, in consultation with the Secretary of State, also has delegated authority to enforce new secondary sanctions, including related to cyber security (Section 224),

<sup>1</sup> Looking forward, the CAATS Act requires OFAC to amend *Directive 4*, which targets new oil projects involving certain Russian energy companies, by October 31, 2017. We anticipate a related announcement by OFAC later this month.

with respect to “significant corruption” in Russia (Section 227), and for facilitating a significant transaction on behalf of persons subject to U.S. sanctions against Russia (Section 228).<sup>2</sup>

On September 28, 2017, Senators Cardin and McCain sent an open letter to President Trump regarding U.S. sanctions against Russia, calling for the administration to “implement the law to its fullest extent.” The senators urged “vigorous enforcement of the sanctions against Russia,” including ensuring that Russia’s defense and intelligence sectors “are sanctioned appropriately” by listing “entities like Rosoboronexport, Rostec, Almaz-Antey, United Shipbuilding Corporation, and all other companies involved in Russia’s production and export of arms” as companies operating in the Russian defense sector under Section 231 of the CAATS Act.

They also asked the President to encourage the European Union to align its sanctions approach with that of the United States and to impose sanctions pursuant to Section 225 of the CAATS Act on non-U.S. companies that invest in Russian arctic, deepwater or shale oil projects. The senators stated that the CAATS Act had made oil project sanctions mandatory “out of concern that European companies had backfilled the sector to the detriment of U.S. firms.” How the administration will respond to this letter remains to be seen.

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Please do not hesitate to contact us with any questions.

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<sup>2</sup> The CAATS Act also directs the Treasury Department to publish several reports, including a report describing “oligarchs and parastatal entities of the Russian Federation” (Section 241) and another assessing the potential effects of expanding sectoral sanctions to cover Russian sovereign debt and derivatives products (Section 242).

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